

Federal Communications Commission

§ 64.1320

for 27 months after the close of that quarter. This data must include the time and date that each call identified in paragraphs (a)(4) and (c) of this section was made. This data must be provided to the payphone service provider upon request.

[68 FR 62755, Nov. 6, 2003, as amended at 70 FR 722, Jan. 5, 2005]

EFFECTIVE DATE NOTE: At 70 FR 722, Jan. 5, 2005, § 64.1310(g) was revised. This paragraph contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 64.1320 Payphone call tracking system audits.

(a) Unless it has entered into an alternative compensation arrangement pursuant to § 64.1310(a) that relieves it of its § 64.1310(a)(1) tracking system obligation, each Completing Carrier must undergo an audit of its § 64.1310(a)(1) tracking system by an independent third party auditor whose responsibility shall be, using audit methods approved by the American Institute for Certified Public Accountants, to determine whether the call tracking system accurately tracks payphone calls to completion.

(b) By the effective date of these rules, each Completing Carrier in paragraph (a) of this section must file an audit report from the auditor (the "System Audit Report") regarding the Completing Carrier's compliance with § 64.1310(a)(1) as of the date of the audit:

(1) With the Commission's Secretary in CC Docket No. 96-128;

(2) With each payphone service provider for which it completes calls and a Completing Carrier may comply with this paragraph's requirement to file copies of the System Audit Report with each payphone service provider by posting the System Audit Report on its website or a clearinghouse website; and

(3) With each facilities-based long distance carrier from which it receives payphone calls.

(c) The Completing Carrier must comply with, and the third-party auditor must verify, the Completing Carrier's compliance with the following factors in establishing a call tracking system pursuant to § 64.1310(a)(1):

(1) Whether the Completing Carrier's procedures accurately track calls to completion;

(2) Whether the Completing Carrier has a person or persons responsible for tracking, compensating, and resolving disputes concerning payphone completed calls;

(3) Whether the Completing Carrier has effective data monitoring procedures;

(4) Whether the Completing Carrier adheres to established protocols to ensure that any software, personnel or any other network changes do not adversely affect its payphone call tracking ability;

(5) Whether the Completing Carrier has created a compensable payphone call file by matching call detail records against payphone identifiers;

(6) Whether the Completing Carrier has procedures to incorporate call data into required reports;

(7) Whether the Completing Carrier has implemented procedures and controls needed to resolve payphone compensation disputes;

(8) Whether the independent third-party auditor can test all critical controls and procedures to verify that errors are insubstantial; and

(9) Whether the Completing Carriers has in place adequate and effective business rules for implementing and paying payphone compensation, including rules used to:

(i) Identify calls originated from payphones;

(ii) Identify compensable payphone calls;

(iii) Identify incomplete or otherwise noncompensable calls; and

(iv) Determine the identities of the payphone service providers to which the Completing Carrier owes compensation.

(d) Consistent with standards established by the American Institute of Certified Public Accountants for attestation engagements, the System Audit Report shall consist of:

(1) The Completing Carrier's representation concerning its compliance; and

(2) The independent auditor's opinion concerning the Completing Carrier's representation of compliance. The

§ 64.1330

Completing Carrier's representation must disclose

(i) Its criteria for identifying calls originating from payphones;

(ii) Its criteria for identifying compensable payphone calls;

(iii) Its criteria for identifying incomplete or otherwise noncompensable calls;

(iv) Its criteria used to determine the identities of the payphone service providers to which the completing carrier owes compensation;

(v) The identity of any clearinghouses the Completing Carrier uses; and

(vi) The types of information that the Completing Carrier needs from the payphone service providers in order to compensate them.

(e) At the time of filing of a System Audit Report with the Commission, the Completing Carrier shall file with the Commission's Secretary, the payphone service providers and the facilities-based long distance carriers identified in paragraph (b) of this section, a statement that includes the name of the Completing Carrier, and the name, address and phone number for the person or persons responsible for handling the Completing Carrier's payphone compensation and for resolving disputes with payphone service providers over compensation, and this statement shall be updated within 60 days of any changes of such persons. If a Completing Carrier chooses to notify payphone service providers of this statement and its System Audit Report by posting these two documents on its website or a clearinghouse website, then this statement shall include the web address for these two documents.

(f) One year after the filing of the System Audit Report, and annually thereafter, the Completing Carrier shall engage an independent third-party auditor to:

(1) Verify that no material changes have occurred concerning the Completing Carrier's compliance with the criteria of the prior year's System Audit Report; or

(2) If a material change has occurred concerning the Completing Carrier's compliance with the prior year's System Audit Report, verify that the material changes do not affect compliance

47 CFR Ch. I (10–1–05 Edition)

with the audit criteria set forth in paragraph (c) of this section. The Completing Carrier must fully disclose any material changes concerning its call tracking system in its representation to the auditor. The Completing Carrier shall file and provide copies of all System Audit Reports pursuant to the procedures set forth in paragraph (b) of this section.

(g) Subject to protections safeguarding the auditor's and the Completing Carrier's confidential and proprietary information, the Completing Carrier shall provide, upon request, to the payphone service provider for inspection any documents, including working papers, underlying the System Audit Report.

[68 FR 62756, Nov. 6, 2003, as amended at 70 FR 723, Jan. 5, 2005]

§ 64.1330 State review of payphone entry and exit regulations and public interest payphones.

(a) Each state must review and remove any of its regulations applicable to payphones and payphone service providers that impose market entry or exit requirements.

(b) Each state must ensure that access to dialtone, emergency calls, and telecommunications relay service calls for the hearing disabled is available from all payphones at no charge to the caller.

(c) Each state must review its rules and policies to determine whether it has provided for public interest payphones consistent with applicable Commission guidelines, evaluate whether it needs to take measures to ensure that such payphones will continue to exist in light of the Commission's implementation of Section 276 of the Communications Act, and administer and fund such programs so that such payphones are supported fairly and equitably. This review must be completed by September 20, 1998.

[61 FR 52323, Oct. 7, 1996]

§ 64.1340 Right to negotiate.

Unless prohibited by Commission order, payphone service providers have the right to negotiate with the location provider on the location provider's selecting and contracting with, and,